

FILED

AUG 15 2017

Clerk, U S District Court
District Of Montana
Missoula

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

JORY STRIZICH,

Plaintiff,

vs.

MIKE BATISTA, et al.,

Defendants.

CV 16-12-H-DLC-JTJ

ORDER

United States Magistrate Judge John T. Johnston entered findings and recommendations in this case on May 12, 2017, recommending that all claims asserted against Defendants Leroy Kirkegard, Mike Batista, Leonard Mihelich, Thomas Wood, Myron Beeson, Tom Wilson, Dan Hess, Lorna Kuchinsky, Billie Reich, Kristy Cobban, Roxanne Wigert, Sam Jovanovich, Paul Lucier, Robert Shaw, Sam Casey, Irl Lambertson, Chris Connell, Vera Hoscheid, Captain McNiel, and all John Does be dismissed and that Plaintiff Jory Strizich's ("Strizich") federal and state law claims against Defendants Reich, Hess, and Napier arising out of the June 20, 2013 incident proceed. Strizich timely filed objections to the findings and recommendations. Consequently, Strizich is

entitled to a de novo review of those findings and recommendations to which he specifically objects. 28 U.S.C. § 636(b)(1)(C). This Court reviews for clear error those findings and recommendations to which no party objects. *See McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted).

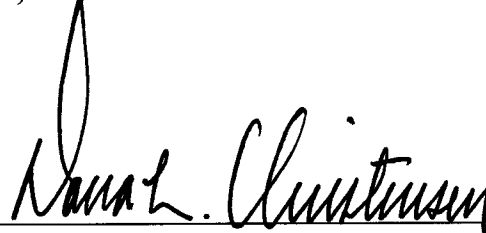
Judge Johnston concluded, and this Court agrees, that all claims except those against Defendants Reich, Hess, and Napier should be dismissed. Strizich has failed to state a claim against any other Defendant. Strizich’s objections fail to present any new evidence and reiterate the same facts and arguments already made and properly rejected by Judge Johnston. Instead, Strizich’s objections are merely rehashed arguments of the same allegations made in his First and Second Amended Complaints.

Accordingly, IT IS ORDERED that Judge Johnston’s findings and recommendations (Doc. 17) are ADOPTED IN FULL.

1. All claims except Plaintiff Strizich’s federal and state law claims against Defendants Reich, Hess, and Napier regarding the June 20, 2013 incident are DISMISSED WITH PREJUDICE.

2. Defendants Leroy Kirkegard, Mike Batista, Leonard Mihelich, Thomas Wood, Myron Beeson, Tom Wilson, Dan Hess, Lorna Kuchinsky, Billie Reich, Kristy Cobban, Roxanne Wigert, Sam Jovanovich, Paul Lucier, Robert Shaw, Sam Casey, Irl Lambertson, Chris Connell, Vera Hoscheid, Captain McNiel, and all John Does are DISMISSED.

DATED this 15th day of August, 2017.

A handwritten signature in black ink, reading "Dana L. Christensen". The signature is written in a cursive style with a large, looped initial "D".

Dana L. Christensen, Chief Judge
United States District Court